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In re Application of
ALVAREZ, Pedro J. et al
U.S. Application No.: 09/446,581
PCT No.: PCT/US98/08196
Int. Filing Date: 24 April 1998
Priority Date: 25 April 1997
Attorney Docket No.: IOWA:020
For: Fe(0)-BASED BIOREMEDIATION OF
AQUIFERS CONTAMINATED . . .

DECISION ON
PETITION FOR REVIVAL
UNDER 37 CFR 1.137(b)

This decision is in response to applicants' "Petition to Revive Unintentionally Abandoned Application Under 37 CFR § 1.137(b)" filed 30 May 2001.

BACKGROUND

On 03 May 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 to applicants indicating that an oath/declaration in compliance with 37 CFR 1.497 must be provided. A one-month period from the date of mailing was set for response. Extensions of time were available pursuant to 37 CFR 1.136(a).

On 14 March 2001, the DO/EO/US mailed a Notification of Abandonment stating that the above-captioned application was abandoned because applicants failed to respond to the aforementioned Notification of Missing Requirements within the time period set.

On 30 May 2001, applicants filed the instant petition to revive which was accompanied by, *inter alia*, a signed declaration.

DISCUSSION

A petition to revive an application on the grounds of unintentional delay pursuant to 37 CFR 1.137(b) must be accompanied by: (1) a proper reply; (2) the requisite petition fee; (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any required terminal disclaimer.

Applicants have submitted a check in the amount of \$620.00 for the petition fee

satisfying item (2) of 37 CFR 1.137(b). Regarding item (3), applicants state that "[t]he entire delay in filing the required reply from the due date for filing the reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3). No terminal disclaimer is required here so item (4) is satisfied.

A proper reply in the above-captioned application is to provide a declaration in compliance with 37 CFR 1.497. Applicants submitted what appears to be five different declarations compiling them together. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to be the appropriate inventive entity. There is no indication whether the inventors were aware that any other inventor was claimed on the above-captioned application except as listed on the page they signed. The inventors are not listed together and there are no page numbers on the pages submitted. Thus, the declaration submitted is not in compliance with 37 CFR 1.497(a)(3) in that it does not properly identify each inventor. Therefore, item (1) is not yet satisfied.

CONCLUSION

For the reasons above, applicants' petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." A proper response must include a declaration in compliance with 37 CFR 1.497. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.

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